

IN THE DRAWINGS

The Examiner states that the reference characters computer system 200; EEPROM 102; hidden partition 201; and external communication link 202 shown in FIG. 2 are not mentioned in the description. The Applicant has added a replacement drawing FIG. 2 so that FIG. 2 is consistent with the Specification.

Attachment: Replacement Sheet

REMARKS

Claims 1-49 are pending in the application.

Claims 1-49 are rejected.

• I. REJECTION UNDER 35 U.S.C. § 103

To establish a *prima facie* case of obviousness, the Examiner must meet three basic criteria. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be some reasonable expectation of success. Finally, the prior art reference must teach or suggest all the claim limitations.

The Examiner has rejected Claims 1, 3-8, 12-14, 16-21, 25-26, 28-33, 37-38, 40-45, and 49 under 35 U.S.C. § 103 (a) as being unpatentable over U.S. Patent 6,003,130 to *Anderson* hereafter ("*Anderson*") in view of U.S. Patent 6,651,150 to *Maeda* hereafter ("*Maeda*").

The Examiner rejected Claims 1, 13, 25, and 38 over *Anderson* in view of *Maeda*. The Examiner states that while *Anderson* discloses that several different BIOS programs may be contained in the memory device he does not state that the second BIOS image is stored in a protected portion of a nonvolatile store unit. The Examiner then states that *Maeda* discloses a method of controlling the rewriting of the nonvolatile storage device by rewriting a first BIOS image (FIG. 1, element 18) with a second BIOS image from a protected portion of a nonvolatile storage unit (FIG. 7, element 161) and updating the system using the second BIOS image in nonvolatile memory (column 6, lines 11-14). Element 18 in FIG. 1 of *Maeda* is a nonvolatile flash ROM. FIG. 7 illustrates how an interruption handler blocks a computer virus (ROM rewriting program) from writing to protected storage areas whether in Flash BIOS-ROM 18, EEPROM 19, or HDD 161. *Maeda* does not state that the second BIOS image is stored in a protected portion of a nonvolatile store unit as recited in Claim 1. *Maeda*, in column 6, lines 11-14, simply

states that the flash BIOS-ROM 18 is rewritten with a new BIOS image, however, *Maeda* does not state that the source of the new BIOS image is a protected portion of a nonvolatile store unit. The Examiner rejected Claims 13, 25, and 38 for the same reasons as Claim 1. Therefore, the Applicant respectfully asserts that all the steps of Claims 1, 13, 25, and 38 are not taught or suggested by *Anderson* and *Maeda* either singly or in combination. Therefore, the Applicant asserts that the rejections of Claims 1, 13, 25, and 38 under 35 U.S.C. § 103 (a) over *Anderson* in view of *Maeda* are traversed by the above arguments.

Claim 3 is dependent from Claim 1 and contains all the limitations of Claim 1. Claim 3 adds the limitation that the recovery BIOS command is generated in response to a recover BIOS request received by the computer system over a communication link. The Examiner states that *Maeda* discloses the limitation of Claim 3 as a secure data packet and cites *Maeda*, column 4, lines 47-50. While *Maeda* states in this recitation that communication device 17 may be used to update the new-version BIOS image file, *Maeda* does not state that the recover BIOS request is received by the computer system over a communication link as recited in Claim 3. *Maeda* does not teach or suggest that the recover BIOS request is sent remotely to the computer system over a communication link. *Maeda* only teaches that a BIOS image or ROM rewriting program may be received over a communication link. Claim 3 recites that the request to recover the BIOS is received over the communication link indicating the process of recovering BIOS may be accomplished from a site remote from the system with the faulty BIOS.

Claim 4 depends from Claim 3 and contains all the limitations of Claim 3. Claim 4 adds the limitation that the recover BIOS request is part of a secure data packet received by the computer system via the communication link. Nowhere in the recitation of *Maeda*, column 4, lines 47-50, does *Maeda* teach or suggest that the request to recover the BIOS is part of a secure data packet. The Examiner rejected Claims 16-17, 28-29, and 40-41 for the same reasons as Claims 3-4. Therefore, the Applicant asserts that the rejections of Claims 3-4, 16-17, 28-29, and 40-41, under 35 U.S.C. § 103 (a) over *Anderson* in view of *Maeda* are traversed by the above arguments.

The Examiner failed to specifically address apparatus Claim 14 and data processing Claim 26 and rejects these claims for the same reasons as Claims 3-4, 16-17, 28-29 and 40-41. Therefore, the Applicant respectfully asserts that the Examiner failed to make a *prima facie* case of obviousness under 35 U.S.C. § 103 (a) over *Anderson* in view of *Maeda* for Claims 14 and 26. Thus, the Applicant asserts that the rejection of Claims 14 and 26 are traversed.

Claim 5 is dependent from Claim 4 and contains all the limitations of Claim 4. The Examiner states that *Maeda* discloses the secure data packet has data which must first be authenticated by the recovery code before the first BIOS is rewritten with the second BIOS image and cites column 5, lines 40-42. In this recitation, *Maeda* states that the CPU 11 performs program –authentication for verifying the interrupted ROM-writing program, *Maeda* does not teach or suggest all the limitations of Claim 5. *Maeda* is simply authenticating the ROM writing program. Nowhere in the recitation of *Maeda*, column 5, lines 40-42, does *Maeda* teach or suggest that the request to recover the BIOS is part of a secure data packet which has data that must first be authenticated. The Examiner rejected Claims 18, 30, and 42 for the same reasons as Claim 5. Therefore, the Applicant asserts that the rejections of Claims 5, 18, 30, and 42 under 35 U.S.C. § 103 (a) over *Anderson* in view of *Maeda* are traversed by the above arguments and for the same reasons as Claim 4.

Claim 6 is dependent from Claim 1 and contains all the limitations of Claim 1. Claim 6 adds the limitation that the nonvolatile memory is EEPROM. The Examiner states that *Maeda* discloses the nonvolatile memory is EEPROM and cites column 4, lines 18-20. Claim 6 is adding a limitation that the specific nonvolatile memory of Claim 1 is EEPROM. The Applicant has shown that *Maeda* does not teach or suggest the invention of Claim 1 and therefore does not teach the invention of Claim 6. The Examiner rejected Claims 19, 31, and 43 for the same reasons as Claim 6. Therefore, the Applicant asserts that the rejections of Claims 6, 19, 31, and 43 under 35 U.S.C. § 103 (a) over *Anderson* in view of *Maeda* are traversed by the above arguments and for the same reasons as Claim 1.

Claim 7 is dependent from Claim 1 and contains all the limitations of Claim 1. Claim 7 adds the limitation that the communication link of Claim 1 comprises a LAN or a WAN. The Examiner states that *Maeda* discloses that the communication link comprises a LAN or a WAN and cites FIG. 1, element 17. Claim 7 is adding a limitation that the specific communication link of Claim 1 comprises a LAN or a WAN. The Applicant has shown that *Maeda* does not teach or suggest the invention of Claim 1 and therefore does not teach the invention of Claim 7. The Examiner rejected Claims 20, 32, and 44 for the same reasons as Claim 7. Therefore, the Applicant asserts that the rejections of Claims 7, 20, 32, and 44 under 35 U.S.C. § 103 (a) over *Anderson* in view of *Maeda* are traversed by the above arguments and for the same reasons as Claim 1.

Claim 8 is dependent from Claim 1 and contains all the limitations of Claim 1. Claim 8 adds the limitation that the nonvolatile storage unit is an IDE disc drive. The Examiner states that *Maeda* discloses that the nonvolatile storage unit is an IDE disc drive and cites column 4, lines 38-40. Claim 8 is adding a limitation that the nonvolatile storage unit of Claim 1 is an IDE disc drive. The Applicant has shown that *Maeda* does not teach or suggest the invention of Claim 1 and therefore does not teach the invention of Claim 8. The Examiner rejected Claims 21, 33, and 45 for the same reasons as Claim 8. Therefore, the Applicant asserts that the rejections of Claims 8, 21, 33, and 45 under 35 U.S.C. § 103 (a) over *Anderson* in view of *Maeda* are traversed by the above arguments and for the same reasons as Claim 1.

Claim 12 is dependent from Claim 1 and contains all the limitations of Claim 1. Claim 12 adds the limitation that the second BIOS image is written onto the protected partition of the nonvolatile storage unit under control of an operating system executing an update BIOS image program on the system. The Examiner states that *Maeda* discloses Claim 12 and cites column 1, lines 41-47 and column 3, lines 27-29. Claim 12 is adding a limitation that the particular steps of Claim 1 are executed under control of an operating system executing an update BIOS image program on the system. The Applicant has shown that *Maeda* does not teach or suggest the invention of Claim 1 and therefore does not teach the invention of Claim 12. The Examiner rejected Claims 37, and 49 for the

same reasons as Claim 12. Therefore, the Applicant asserts that the rejections of Claims 12, 37, and 49 under 35 U.S.C. § 103 (a) over *Anderson* in view of *Maeda* are traversed by the above arguments and for the same reasons as Claim 1.

The Examiner has rejected Claims 2, 9-10, 15, 22-23, 27, 34-35, 39, and 46-47 under 35 U.S.C. § 103 (a) as being unpatentable over *Anderson* in view of *Maeda* and further in view of U.S. Patent 6,757,838 to *Chaiken et al.* hereafter ("*Chaiken*").

Claim 2 is dependent from Claim 1 and contains all the limitations of Claim 1. Claim 2 adds the limitation that the first BIOS image is rewritten with the second BIOS image if the first BIOS image is determined to be corrupted. The Examiner states that *Anderson* and *Maeda* do not disclose the invention of Claim 2. However, the Examiner states that *Chaiken* discloses Claim 2 and cites column 10, lines 10-24. In this recitation, *Chaiken* states; "either way, at the end of POST, the computer system S will have successfully completed POST, the active BIOS will be bootable, the count will be reset to the predetermined non-zero value, and the OS will be loaded and in control of the computer system S. The computer system S will be fully operational whether booting occurs from the backup or the main BIOS, not just a minimal number of hardware components." The Applicant fails to see mention of the limitation of Claim 2. Nothing in this recitation of *Chaiken* discusses or suggests that the first BIOS image is rewritten with the second BIOS image if the first BIOS image is determined to be corrupted.

The Applicant has shown that *Anderson* and *Maeda* do not teach or suggest the invention of Claim 1 and therefore does not teach the invention of Claim 2. The Examiner does not assert that *Chaiken* adds anything relative to the teachings of Claim 1. Therefore, the Applicant asserts that *Anderson*, *Maeda*, and *Chaiken*, singly or in combination do not teach or suggest the invention of Claim 2. The Examiner rejected Claims 15, 27, and 39 for the same reasons as Claim 2. Therefore, the Applicant asserts that the rejections of Claims 2, 15, 27, and 39 under 35 U.S.C. § 103 (a) over *Anderson* in view of *Maeda* and further in view of *Chaiken* are traversed by the above arguments and for the same reasons as Claim 1.

Claim 9 is dependent from Claim 1 and contains all the limitations of Claim 1. Claim 2 adds the limitation that the second BIOS image was written onto the protected partition of the nonvolatile storage unit at the time of manufacture. The Examiner states that *Anderson* and *Maeda* do not disclose the invention of Claim 9. However, the Examiner states that *Chaiken* discloses Claim 9 and cites column 7, lines 25-29. In this recitation, *Chaiken* states; "in certain other embodiments, no main BIOS is loaded at manufacturing time. In other words, at manufacturing time or before the first flashing of the BIOS in these embodiments, the main BIOS need not be populated, but the backup BIOS exists. In these embodiments, the main BIOS is created once the system is flashed." *Chaiken* only states that the back-up BIOS exists, he does not state that it is written onto the protected partition of the nonvolatile storage unit at the time of manufacture as recited in Claim 9.

The Applicant has shown that *Anderson* and *Maeda* do not teach or suggest the invention of Claim 1 and therefore does not teach the invention of Claim 9. The Examiner does not assert that *Chaiken* adds anything relative to the teachings of Claim 1. Therefore, the Applicant asserts that *Anderson*, *Maeda*, and *Chaiken*, singly or in combination do not teach or suggest the invention of Claim 9. The Examiner rejected Claims 22, 34, and 46 for the same reasons as Claim 9. Therefore, the Applicant asserts that the rejections of Claims 9, 22, 34, and 46 under 35 U.S.C. § 103 (a) over *Anderson* in view of *Maeda* and further in view of *Chaiken* are traversed by the above arguments and for the same reasons as Claim 1.

Claim 10 is dependent from Claim 2 and contains all the limitations of Claim 2. Claim 10 adds the limitation that the first BIOS image is determined to be corrupted by comparing a signature of the first BIOS image to a signature received in the secure data packet. The Examiner states that *Anderson* and *Maeda* do not disclose the invention of Claim 10. However, the Examiner states that *Chaiken* discloses Claim 10 and cites column 8, lines 39-43. In this recitation, *Chaiken* states; "the backup BIOS validates the contents of the main BIOS via methods that can include any or a combination of the following: checksums, CRCs (Cyclic Redundancy Checks), system board IDs, digital

signatures, and the like." *Chaiken* does not state that the first BIOS image is determined to be corrupted by comparing a signature of the first BIOS image to a signature received in the secure data packet as recited in Claim 10. The Applicant has shown that *Anderson* and *Maeda* do not teach or suggest the invention of Claim 2 and therefore does not teach the invention of Claim 10. The Examiner does not assert that *Chaiken* adds anything relative to the teachings of Claim 2. Therefore, the Applicant asserts that *Anderson*, *Maeda*, and *Chaiken*, singly or in combination do not teach or suggest the invention of Claim 10. The Examiner rejected Claims 23, 35, and 47 for the same reasons as Claim 10. Therefore, the Applicant asserts that the rejections of Claims 10, 23, 35, and 47 under 35 U.S.C. § 103 (a) over *Anderson* in view of *Maeda* and further in view of *Chaiken* are traversed by the above arguments and for the same reasons as Claim 2.

The Examiner has rejected Claims 11, 24, 36 and 48 under 35 U.S.C. § 103 (a) as being unpatentable over *Anderson* in view of *Maeda* and further in view of U.S. Patent 6,438,640 to *Miyamoto et al.* hereafter ("*Miyamoto*").

Claim 11 is dependent from Claim 4 and contains all the limitations of Claim 4. Claim 10 adds the limitation that the secure data packet is a Wake on LAN packet. The Examiner states that *Anderson* and *Maeda* do not disclose the invention of Claim 11. However, the Examiner states that *Miyamoto* discloses Claim 11 and cites column 1, lines 8-13. In this recitation, *Miyamoto* states; "the present invention relates to a computer system and its control method and, more particularly, to a computer system with a wakeup function that allows the computer system to return from a stop or sleep state to an operative state in response to a specific packet received from a network, and a wakeup function control method." *Miyamoto* does not state the secure data packet of Claim 4 is a Wake on LAN packet as recited in Claim 11. The Applicant has shown that *Anderson* and *Maeda* do not teach or suggest the invention of Claim 4 and therefore does not teach the invention of Claim 11. The Examiner does not assert that *Miyamoto* adds anything relative to the teachings of Claim 4. Therefore, the Applicant asserts that *Anderson*, *Maeda*, and *Miyamoto*, singly or in combination do not teach or suggest the invention of Claim 11. The Examiner rejected Claims 24, 36, and 48 for the same

reasons as Claim 11. Therefore, the Applicant asserts that the rejections of Claims 11, 24, 36, and 48 under 35 U.S.C. § 103 (a) over *Anderson* in view of *Maeda* and further in view of *Miyamoto* are traversed by the above arguments and for the same reasons as Claim 4.

II. CONCLUSION

The rejections of Claims 1, 3-8, 12-14, 16-21, 25-26, 28-33, 37-38, 40-45, and 49 under 35 U.S.C. § 103 (a) as being unpatentable over *Anderson* in view of *Maeda* have been traversed.

The rejections of Claims 2, 9-10, 15, 22-23, 27, 34-35, 39, and 46-47 under 35 U.S.C. § 103 (a) as being unpatentable over *Anderson* in view of *Maeda* and further in view of *Chaiken* have been traversed.

The rejections of Claims 11, 24, 36 and 48 under 35 U.S.C. § 103 (a) as being unpatentable over *Anderson* in view of *Maeda* and further in view of *Miyamoto* have been traversed.

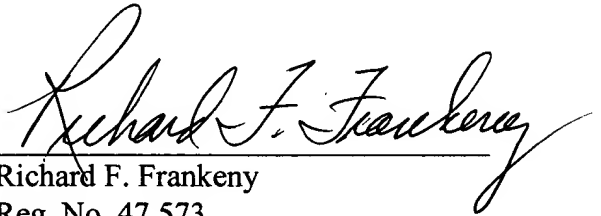
The Applicant, therefore, respectfully asserts that Claims 1-49 are now in condition for allowance and requests an early allowance of these claims.

Applicant respectfully requests that the Examiner call Applicant's attorney at the below listed number if the Examiner believes that such a discussion would be helpful in resolving any remaining problems.

Respectfully submitted,

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